

REMARKS

In response to the Office Action mailed December 21, 2006, Applicant respectfully requests reconsideration. Claims 1-43 are pending in the application of which claims 1, 21, 40, and 42 are independent. By this amendment, Applicant amends claims 8 to remedy a typographical error in the claim dependency and amends claim 40 to further clarify Applicant's invention. Accordingly, no new matter has been introduced by these amendments.

The Examiner objected to the disclosure stating that the second sentence in the Abstract is not grammatical. Office Action at 2. Applicant notes that the first sentence of the Abstract was incomplete as filed and has amended the sentence accordingly. Since the second sentence of the Abstract, "A network device.... monitors traffic...", is grammatical, Applicant presumes that the Examiner meant to object to the first sentence. Accordingly, in view of the amendment to the first sentence, Applicant believes the objection to the disclosure should be withdrawn.

Rejections under 35 U.S.C. § 112

In the Office Action, the Examiner rejects claim 10 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Office Action at 2. The Examiner points out that there is no antecedent basis for "the third network." Office Action at 2. Applicant has amended claim 8 to depend from claim 3, which gives antecedent basis for "the third network." Id. Since Claim 10 depends from claim 8, antecedent basis is now provided for "the third network," and the rejection under 35 U.S.C. § 112 should be withdrawn.

Rejections under 35 U.S.C. § 101

In the Office Action, the Examiner rejects claims 40-43 under 35 U.S.C. § 101 as not being directed to tangible embodiments. Office Action at 3. Applicant disagrees, noting first that claim 42 is directed to "A program storage medium readable by a computer, **tangibly** embodying a program...." Although Applicant maintains that, as filed, claims 40-43 constitute patentable subject matter, to expedite examination, claim 40 has been amended to read, "An article of manufacture comprising a program storage medium having computer readable program code **tangibly** embodied...." Accordingly, Applicant respectfully requests reconsideration and the withdrawal of the rejection under 35 U.S.C. § 101.

Rejections under 35 U.S.C. § 103

In the Office Action, the Examiner rejects claims 1-43 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application Publication No. 2002/0083344 ("Vairavan") in view of U.S. Patent No. 7,017,186 ("Day"). Office Action at 3. Of the rejected claims, claims 1, 21, 40, and 42 are independent. Pursuant to 35 U.S.C. § 102(e), the earliest prior art date of Day is July 30, 2002.

While Applicant disagrees that claims 1-43 are unpatentable over Vairavan in view of Day, the rejection under 35 U.S.C. § 103 should be withdrawn because Applicant's invention was conceived and reduced to practice before the relevant, effective date of Day (July 30, 2002). To expedite examination, Applicant submits herewith a Declaration by a named inventor, Dionisio Lobo, which, pursuant to 37 C.F.R. § 1.131, establishes a conception, before July 30, 2002, of the invention disclosed in U.S. provisional patent application Serial No. 60/402,255, upon which this application is based. The Declaration also establishes diligence in achieving reduction

to practice of the invention for the period between prior to July 30, 2002 and the filing of USSN 60/402,255 on August 9, 2002. As stated in the Declaration, the inventors, Mr. Lobo and Mr. Singhal, conceived of the invention prior to July 30, 2002. *See* Lobo Declaration, para. 4. The conception is evidenced by the preparation, in the U.S., of computer software code implementing the claimed invention before July 30, 2002. The implementation of the computer software code is documented in Exhibits A - G attached to the Declaration.

In addition to conceiving the invention, prior to July 30, 2002, a patent application drafting project was started for this invention. The project resulted in the filing on August 9, 2002 of USSN 60/402,255. The filing of USSN 60/402,255 constitutes constructive reduction to practice of the invention claimed in the instant application. The Declaration conclusively shows that diligence was exercised in achieving the constructive reduction to practice of the invention in the period between just prior to the effective filing date of Day (July 30, 2002) and Mr. Lobo's filing date (August 9, 2002). *Id.*, para. 12.

Accordingly, it is respectfully submitted that Day is not available as prior art against claims 1-43, and that the rejections under section 103 should be withdrawn. *See* C.F.R. § 1.131(a)-(b).

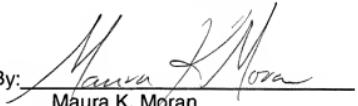
In view of the foregoing response and remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge
any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 21, 2007

By: 
Maura K. Moran
Reg. No. 31,859